HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Dated 13th day of June, 2007

W.P.No.8466 and 12127 of 2000

Between:

N.Sarojini .. Petitioner

And

The Divisional Railway Manager,
Commercial Branch, Vijayawada Division,
South Central Railway, Vijayawada,
Krishna District
and another .. Respondents

COMMON ORDER:

As the question of fact and law and the parties in these writ petitions are one and the same both the matters are taken up together for disposal by this common order.

The petitioner asserts that her father by name V. Srinivasa Rao was a licenced contractor for miscellaneous Stall on Platform No.5 at Vijayawada Railway Station and at other places in terms of licence granted by the respondents-Railways. During the pendency of the contract, Srinivasa Rao died and the petitioner along with her minor brother V.Prasada Rao gave an application to the respondents to consider her case and transfer the licence in their favour. Accordingly, the 1st respondent transferred the licence in favour of the petitioner and her minor brother. However, her paternal uncle's son by name Ramakrishna, with a false claim of adoption, and based on an *ex parte* decree in O.S.No.808 of 1981 on the file of the learned III Additional District Munsif, Vijayawada, filed an application before the authorities, stating that he is entitled to the transfer of licence, but not the petitioner and her minor brother. In the light of the dispute, the licence could not be given in favour of either the petitioner and her minor brother or Ramakrishna. Ultimately, the matters between the petitioner and Ramakrishna went upto the Supreme Court where it reached its finality. While deciding the matter, the Supreme Court, vide its judgment dated 3.2.1999 in Civil Appeal No.7006 of 1993, directed the Railway Administration to consider the renewal of licence in favour of the petitioner in accordance with law i.e. the issue of renewal of licence has to be settled as per the rules/regulations/instructions which are in force as on date. However the 1st respondent passed an order on 5.6.2000 stating that on 27.6.1982, the Railway Board has specified that married daughters and daughters-in-law of deceased contractors with their

husbands alive and employed are not eligible for transfer of licence in their favour and rejected the petitioner's application. Aggrieved by the same, the petitioner has filed W.P.No.12127 of 2000. Questioning the Tender Notification dated 28.3.2000 issued by the 1st respondent calling for applications for auction of the Stall, the petitioner has filed W.P.No.8466 of 2000.

During the course of arguments, Sri B.Narasimha Sharma, learned counsel for the petitioner has submitted that the licence was transferred on 1.10.1981 i.e. prior to the circular instructions issued by the Railway Board on 27.6.1982, as such, the circular instructions insofar as the petitioner is concerned cannot be applied. However, this aspect was not decided by the Supreme Court and what all it observed is that the issuance of renewal of licence has to be settled as per the rules/regulations/instructions which are in force as on date. Hence, without going into the aspect of applicability of circular instructions, this Court deems it appropriate to direct the respondents to consider the case of the petitioner as to whether she is entitled to the transfer of her father's licence or not and this exercise shall be done strictly in accordance with the rules/regulations/instructions which are in force as on date.

With the above direction, these writ petitions are disposed of. No costs.

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13.06.2007

bcj